IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Bail Appl..No. 5041 of 2006()

L.P.NO.29/2005 IN CC.194/2003 of J.M.F.C.-II(FOREST OFFENCES),MANJERI

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PETITIONER/ACCUSED

MAJEED.K., S/O.MOIDEENKUTTY,
THACHOLI (H), MEPPAYUR (PO), KOZHIKODE.

BY ADV. SRI.PULIKKOOL ABUBACKER
SRI.ZUBAIR PULIKKOOL
SRIM.JISHO JOHN M

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
ITS STATE PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

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B.A. No. 5041 of 2006

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Dated this the 14th day of November, 2006

O R D E R

A report dated nil, having C.No.99/6144/06 CCO, in relation to the order in bail application No.5041/2006, dated 26/10/2006, (L.P.No.29/2005 in C.C.No.194/2003 of Judicial Magistrate of the First Class-II, Manjeri), was received by this Court. It was filed by the Circle Inspector of Police, Payyoli, Kozhikode, Mr.Xavier Sebastian, relating to the inexecution of a bailable warrant issued to one Majeed, son of Moideen Kutty, Thacholi House, Meppayur P.O., Kozhikode. The said Majeed was summoned before this Court by the issuance of a bailable warrant. Although, the bailable warrant was unexecuted and returned with a report, as stated above, Majeed was present before this Court and he explained that he is working in a hotel at Calicut.

2. I have doubted the report and the conduct of the Circle Inspector of Police. Therefore, I asked him to appear

before the Court. Accordingly, he appeared. I was very much disturbed the way in which the report was filed by the Circle Inspector. Therefore, I asked him to file an affidavit stating the true facts. Accordingly, an affidavit dated 10/11/2006 is filed. On going through the same, I find that the averments, therein, are the repetitions of the earlier report, filed by him, along with the return of the unexecuted bailable warrant, issued against Majeed.

3. On going through the entire facts and hearing the learned Senior Government Pleader, Mr.Dileep, I doubt the bona fides of the averments contained in the affidavit. I have reason to believe that the Circle Inspector of Police had not done his duty and, according to the requirements of the law and procedure. He also did not take the bailable warrant, for its execution. Because of the extraneous reasons, he had filed a report, as stated above, on 02/11/2006. Even after his appearance and clarification from this Court, he has gone to the extend of reiterating the facts in the report, in the form of an affidavit, before this Court. The whole matter requires a complete and thorough probe by a Senior Officer, so that the practice of some of the police officers, making different

stories, misleading the court, and thereby bringing disrepute to the whole police force will be stopped in all respects. Therefore, I direct the Superintendent of Police, Kozhikode Rural, to inquire everything that had happened about the non-execution of the bailable warrant issued against Majeed, and place the truth before this Court.

4. The superintendent of Police shall consider the following facts which are stated in the report and averred in the affidavit of the Circle Inspector, Payyoli:-

i. When the wife was not in cordial terms with Majeed; when he did not visit the house frequently; when C.I had entrusted others to inform him secretly about the arrival of Majeed and; when the whereabouts of Majeed was not known; how Majeed appeared before the Court on 02/11/2006, at the same time when the report was filed by the Circle Inspector of Police, Payyoli, with the unexecuted bailable warrant .

ii. The counsel defending Majeed before the

Magistrate Court was present when Majeed appeared before High Court.

iii. How Majeed, who stated as working at Kozhikode, in a hotel came to know of the date of appearance before this Court; and who informed him.

iv. If C.I met Majeed, the bailable warrant should have been executed and matter reported. Instead, why the C.I took interest to file such a long and fabricated report before High Court.

v. The materials only show that the C.I had unnecessarily shown undue interest in the matter for his own reasons.

5. Hence the Superintendent of Police (Rural), shall file the report within fifteen (15) days from the date of receipt of this order, before this Court. The Circle Inspector of Police, Payyoli shall be present before me on that day.

Post on 29/11/2006.

(J.M.JAMES)
Judge

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J.M.JAMES, J.

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B.A. No. 5041 of 2006

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Dated this the 6th day of December, 2006

O R D E R

Basing on the report of Vatakara Deputy Superintendent of Police, who recorded the statement of a few persons of the locality as well as the accused and his wife, the Kozhikode Rural Superintendent of Police, Mr.Tarun Kumar, I.P.S, has filed a report, answering to the queries raised by this Court in the order dated 14/11/2006. I have gone through the report, the submission of the Dy.S.P., Vatakara and the statements of the witnesses recorded by him, including the accused. I have also heard Mr.Xavier Sebastian, Circle Inspector of Police, Payyoli.

2. On perusal of the entire records, I am not satisfied the way the report is based, the enquiry conducted and the matter was dealt with. Yet, in order to avoid a precipitation of the matter, which would adversely affect the carrier of a police officer, who repeatedly apologised before the Court, and prayed to pardon him, I drop all the proceedings and close this matter.

3. On 02/11/2006, I have considered the prayer of the applicant/accused in this bail application, when he appeared before this Court in obedience to the bailable warrant issued against him. He was released on self bond, directing him to appear before the local Magistrate Court on 04/11/2006, at 11 a.m. The learned Magistrate was directed to pass orders on merit. Thus, there is nothing that survives in this Bail Application. Hence, this Bail Application is closed.

(J.M.JAMES)
Judge

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